

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 402

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO FIREARMS, EXPLOSIVES AND OTHER DEADLY WEAPONS; AMENDING SECTION 18-3318, IDAHO CODE, TO DEFINE A TERM, TO PROVIDE CORRECT CODE REFERENCES AND TO MAKE A TECHNICAL CORRECTION; AMENDING CHAPTER 33, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-3319A, IDAHO CODE, TO PROVIDE FOR UNLAWFUL ACTS RELATING TO A HOAX DESTRUCTIVE DEVICE AND TO PROVIDE A PENALTY; AND AMENDING SECTION 18-3320, IDAHO CODE, TO PROVIDE FOR THE UNLAWFUL USE OF A HOAX DESTRUCTIVE DEVICE IN THE COMMISSION OR ATTEMPTED COMMISSION OF A FELONY AND TO MAKE TECHNICAL CORRECTIONS.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 18-3318, Idaho Code, be, and the same is hereby amended to read as follows:

18-3318. DEFINITIONS. Definitions as used in sections 18-3319, 18-3319A, 18-3320, 18-3320A and 18-3321, Idaho Code:

(1) "Bomb" means any chemical or mixture of chemicals contained in such a manner that it can be made to explode with fire or force, and combined with the method or mechanism intended to cause its explosion. The term "bomb" includes components of a bomb only when the individual charged has taken steps to place the components in proximity to each other, or has partially assembled components from which a completed bomb can be readily assembled. "Bomb" does not include: rifle, pistol or shotgun ammunition and their components; fireworks; boating, railroad and other safety flares or propellants used in model rockets or similar hobby activities.

(2) "Destructive device" means:

(a) Any explosive, incendiary or poisonous gas:

(i) Bomb;

(ii) Grenade;

(iii) Rocket having a propellant charge of more than four (4) ounces;

(iv) Missile having an explosive or incendiary charge of more than one-fourth (1/4) ounce;

(v) Mine;

(vi) Similar device.

(b) Any type of weapon, by whatever name known, which will, or which may be imminently converted to, expel a projectile by the action of an explosive or other propellant, the barrel or barrels of which have a bore of more than .700 inches in diameter, except rifled and unrifled shotguns or shotgun shells.

(c) Components of a destructive device only when the individual charged has taken steps to place the components in proximity to each other, or

has partially assembled components from which a completed destructive device can be readily assembled.

(d) The term "destructive device" shall not include:

(i) Any device which is neither designed nor redesigned for use as a weapon;

(ii) Any device which, although originally designed for use as a weapon, has been redesigned for use as a signaling, pyrotechnic, line throwing, safety or similar device;

(iii) Otherwise lawfully owned surplus military ordnance;

(iv) Antiques or reproductions thereof and rifles held for sporting, recreational, investment or display purposes;

(v) Rifle, pistol or shotgun ammunition and their components.

(3) "Hoax destructive device" means any object that, under the circumstances, reasonably appears to be or contain a destructive device or is proclaimed to be or contain a destructive device as defined in this section, but that is not in fact a destructive device.

(4) "Shrapnel" means any metal, ceramic, glass, hard plastic or other material of sufficient hardness to puncture human skin when propelled by force of the bomb or destructive device to which it is attached or in which it is contained.

SECTION 2. That Chapter 33, Title 18, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 18-3319A, Idaho Code, and to read as follows:

18-3319A. UNLAWFUL ACTS -- HOAX DESTRUCTIVE DEVICE. Any person who knowingly manufactures or possesses or who knowingly sells, gives, mails, sends or causes to be sent to another person any hoax destructive device, or who knowingly places or causes to be placed any hoax destructive device at any location, with the intent that any other person will believe that such hoax destructive device is a destructive device, is guilty of a felony and upon a conviction thereof shall be sentenced to a term of not to exceed five (5) years in the state penitentiary, unless the provisions of section 18-3320(1), Idaho Code, apply, then for a term of confinement and fine as provided in section 18-3320, Idaho Code.

SECTION 3. That Section 18-3320, Idaho Code, be, and the same is hereby amended to read as follows:

18-3320. UNLAWFUL USE OF HOAX DESTRUCTIVE DEVICE, DESTRUCTIVE DEVICE OR BOMB. Any person who knowingly, intentionally, ~~or~~ or recklessly:

(1) Conspires to use, uses or causes to be used a hoax destructive device, destructive device or bomb in the commission of or an attempt to commit a felony; ~~or~~

(2) With the intent to injure the person or property of another, transports a bomb or destructive device; or

(3) Injures another or conspires or attempts to injure another in his person or property through the use of a hoax destructive device, destructive device or bomb is guilty of a felony, punishable by up to a twenty-five thousand dollar (\$25,000) fine and life in prison.